IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3636 OF 1993

Shri D.B. Adagale
Head Master
Social Service League
High School, Damodar Hall Compound
Dadar, Bombay - 13 ... Petitioner

V/s.

1. Smt.Asha Deshpande
D-Block, Room No.31, New Chandra
Hsg. Society, Veer Desai Road
Andheri (W)
Bombay - 58

2. The Secretary/Chairman
Social Service League
Servant of India, Society's
house, S.V.P. Road
Bombay-400 004

3. Smt.Aruna A. Risbud
38, Gopal Bhavan, Khed Galli
Dadar, Bombay - 28 ... Respondents

Mr.L.M. Nerlekar for Petitioner
Mr.Neel Helekar for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 1, 2005**

ORAL JUDGMENT:

. The Petition challenges the judgement and order of the School Tribunal dated 17.2.1993. The appointment of the Petitioner to the post of Head Master was set aside and the Respondent No.2 was directed to appoint the senior most member of the teaching staff as Head

Master in strict conformity with sub-rule (1) Rule 3 of the 1981 Rules to the Maharashtra Employees Private Schools Act.

2. The contention raised by Respondent No.1 before the School Tribunal was that the Headmaster's post was an isolated post and she being the seniormost teacher was entitled to the said post. Respondent No.1 has already retired in July 1995.

3. Respondent No.3 who has been added as a party to the Petition had filed Writ Petition No.519 of 1996, which was dismissed on 9.10.2001. She claimed therein that the Petitioner had no right to the post of assistant headmaster and consequently, the post of Headmaster as he had superseded others. This challenge was negatived by the Division Bench of this Court to which I was a party. Respondent No.3 also retired in September 2003.

4. The Tribunal has proceeded on the footing that the Petitioner has no right to the post ignoring the fact that the post could be termed as an isolated post as there were four schools and a common seniority list was required to be maintained in respect of both the assistant headmaster's post and headmaster's post. The

Tribunal, in my view, incorrectly interpreted the law and held that the headmaster's post and the assistant headmaster's post in the present case were single and isolated prior to 1.1.1986 as the said posts were in B category prior to 1.1.1986.

5. In this view of the matter, the judgment and order of the School Tribunal is set aside.

6. There is no dispute that the interim relief had been granted to the Petitioner and he was allowed to continue in the post during the pendency of the Petition. He has been working in that post ever since 1987. The appeal challenging the Petitioner's appointment was filed in 1992 by Respondent No.1. In my view, it should not have been entertained by the Tribunal after such a long period of time.

7. Rule made absolute accordingly. No costs.